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Decision

Matter of: Industrial Property Management

File: B-291336.2

Date: October 17, 2003

Joseph C. Port, Jr., Esq., and Harvey J. Nathan, Esq., Sidley Austin Brown & Wood, for the protester.
Robert L. Duecaster, Esq., Department of the Army, for the agency.
Ralph O. White, Esq., and Christine S. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protester's contention that the agency failed to perform a proper "best value" analysis among competing proposals is denied where the record shows that: (1) the agency properly documented the benefits associated with selecting the awardee's higher-priced, higher-rated proposal over the lower-priced, lower-rated proposal of another offeror; and (2) there was no need for the agency to make a second tradeoff decision between the overall equally-rated proposals of the awardee and the protester, given the protester's 20 percent higher price.

DECISION

Industrial Property Management (IPM) protests the award of a contract to Ferguson-Williams, Inc. under request for proposals (RFP) No. DASW01-02-R-0017, issued as a small business set-aside by the Department of the Army's Defense Contract Command--Washington (DCC-W). The RFP sought proposals for caretaker services, and operations and maintenance, for the closed Stratford Army Engine Plant, Stratford, Connecticut.[1] IPM, the incumbent contractor, contends that the selection of Ferguson-Williams for award was unreasonable, and that IPM's higher-priced proposal should have been selected instead.

We deny the protest.

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[1] The Stratford Army Engine Plant was closed in 1997, after a 1995 review conducted as part of the Base Realignment and Closure process. Until the closed facility is turned over to new owners, it must be maintained by the government.

BACKGROUND

The RFP here was issued on May 28, 2002, and contemplated award of a fixed-price, indefinite-delivery/indefinite-quantity contract to the offeror whose proposal was found to present the best value to the government. The RFP identified three evaluation factors--technical approach, past performance, and price, in descending order of importance--and four equally-weighted subfactors under the technical approach factor: (1) understanding requirements/plan of operation; (2) staffing and organization; (3) quality control; and (4) transition (phase-in) plan. RFP at 236-37. In addition, with respect to the price factor, the RFP advised that price would be "a significant evaluation factor and will become more critical as technical ratings approach equality." Id. at 238.

The agency received four proposals in response to the RFP. Each proposal was evaluated and adjectival ratings were assigned under each of the four technical approach subfactors and under the past performance factor; the adjectival ratings were: exceptional, good, acceptable, marginal, and unacceptable. Source Selection Plan at 10. After initially excluding, and then restoring, one of the offers to the competitive range, the agency called for final revised proposals. At the conclusion of the evaluation, the overall results and proposed prices were as follows, and proposals were ranked in the order shown:

OFFEROR	OVERALL RATING	PRICE
1. Ferguson-Williams	Good	$10.5 million
2. Offeror A	Acceptable	$ 9.7 million
3. IPM	Good	$12.6 million
4. Offeror B	Acceptable	$13.8 million

Memorandum of Source Selection Decision, Apr. 28, 2003, at 1-3.

The table below shows the ratings of Ferguson-Williams and IPM on the four technical approach subfactors that, when considered in the aggregate, resulted in overall ratings of "good" for both companies.

TECHNICAL APPROACH SUBFACTORS	Ferguson-Williams	IPM
1. Understanding Requirements/ Plan of Operation	Good	Acceptable
2. Staffing and Organization	Acceptable	Exceptional
3. Quality Control	Good	Acceptable
4. Transition (Phase-In) Plan	Good	Acceptable

Id. at 2.

Based on these results, the contracting officer performed a price/technical tradeoff analysis that ultimately concluded that the Ferguson-Williams proposal offered the best value to the government. In reaching this conclusion, the contracting officer adopted the evaluation team's conclusion that the technical merit of the two higher-priced proposals (one of which was IPM's) did not justify paying their higher prices. Id. at 6. The selection decision then turned to a detailed tradeoff between Offeror A and Ferguson-Williams. Id. at 6-9.

DISCUSSION

In its initial protest, IPM points to its experience as the incumbent contractor for these services and asserts that any rating under any technical subfactor given Ferguson-Williams or Offeror A that exceeds the rating given IPM was irrational. In addition to a specific challenge to the agency's assessment of Ferguson-Williams's staffing plan, IPM argues that the evaluation of IPM's proposal was unreasonable under three of the four technical subfactors, and under the past performance factor. Finally, IPM argues that the review of prices and the best value determination were irrational.

In its comments, IPM shifts its focus from the specifics of the evaluation to the agency's ranking of the four proposals in the order shown above, and to the price/technical tradeoff included in the best value decision. Specifically, IPM complains that the agency irrationally ranked Offeror A's proposal higher than IPM's proposal, and then unreasonably limited the price/technical tradeoff to the two lowest-priced proposals. In IPM's view, the detailed tradeoff should have been between its proposal and the proposal submitted by Ferguson-Williams, and the IPM proposal should have been selected for award.

In reviewing a protest against an agency's evaluation of proposals and award, including tradeoff determinations, we examine the record to determine whether the agency's judgment was reasonable and consistent with the solicitation's evaluation criteria, and with applicable statutes and regulations. Ostrom Painting &

Sandblasting, Inc., B-285244, July 18, 2000, 2000 CPD ¶ 132 at 4. A protester's disagreement with the agency's determinations as to the relative merit of competing proposals, and its judgment as to which proposal offers the best value to the agency, does not establish that the evaluation or source selection was unreasonable. Weber Cafeteria Servs., Inc., B-290085.2, June 17, 2002, 2002 CPD ¶ 99 at 4.

With respect to IPM's challenge to the agency's ranking of proposals, the first table above shows that after completing the evaluations, the agency ranked the proposals of Ferguson-Williams and Offeror A first and second, respectively, followed by IPM's and Offeror B's proposals. Since IPM received an overall rating of "good" while Offeror A's rating was only "acceptable," and since technical merit was more important than price under the RFP's stated evaluation scheme, IPM contends that the decision to rank the proposal of Offeror A higher than the IPM proposal shows that the agency was improperly emphasizing the importance of price, in violation of the evaluation scheme.

In reviewing this record, we need not consider in detail the reasons for the rankings assigned these proposals, as we see no evidence that IPM was prejudiced in any way. Offeror A's proposal was rated overall as "acceptable," and was also the proposal with the lowest price. Under Federal Acquisition Regulation § 15.308, an agency's source selection decision must include the rationale for any tradeoffs made, including the benefits associated with the additional costs of a higher-priced offer. Thus, regardless of whether Offeror A's proposal was ranked above or below the proposal of IPM, an explanation of the benefits offered by the selection of any higher-priced proposal over Offeror A's lower-priced proposal was required to be part of any proper price/technical tradeoff decision. The selection decision here documents the consideration of these benefits in great detail. Memorandum of Source Selection Decision, supra, at 6-9.

Once the agency completed its tradeoff between the lowest-priced proposal and the higher-rated, higher-priced Ferguson-Williams proposal--a tradeoff required by regulation, regardless of any assigned ranking--there was no requirement that it conduct a second tradeoff between the Ferguson-Williams and IPM proposals. Bella Vista Landscaping, Inc., B-291310, Dec. 16, 2002, 2002 CPD ¶ 217 at 6, recon. denied, B-291310.2, Apr. 4, 2003. Both the Ferguson-Williams and IPM proposals received overall ratings of "good," while the IPM proposal was priced approximately 20 percent higher than the proposal submitted by Ferguson-Williams. As explained above, the source selection decision document included an express determination that there was nothing about the two highest-priced proposals that justified their selection over a proposal with the same overall rating of "good" (Ferguson-Williams's proposal), as the highest-rated of the two higher-priced proposals (IPM's proposal). Memorandum of Source Selection Decision, supra, at 6.

In addition, IPM's argument that there should have been a second detailed tradeoff analysis between its proposal and the Ferguson-Williams proposal is premised on an

assumption that the IPM proposal, by virtue of the company's status as an incumbent, must have been better than the Ferguson-Williams proposal, even though both proposals received the same overall rating. The record here suggests no basis for such an assumption.

Our review of the technical approach subfactor ratings awarded to the IPM and Ferguson-Williams proposals, shown above, gives no clear indication that IPM's "good" rating in fact represents a better rating than Ferguson-Williams's "good" rating. Specifically, Ferguson-Williams received three "good" ratings and one "acceptable" rating under the four technical subfactors; IPM received one "exceptional" rating and three "acceptable" ratings. Without evidence in the record that the IPM proposal was regarded as superior to the Ferguson-Williams proposal despite their identical adjectival ratings, we know of no reason the agency was required to conduct a second tradeoff between these two offerors with equal overall ratings. Bella Vista Landscaping, Inc., supra.

As a final matter, we note that IPM's comments on the agency report incorporated each of its initial protest issues and challenges--with one exception, which it expressly withdrew--but did not provide any substantive reply to the detailed responses provided by the agency in answer to the initial challenges. During the course of this protest, IPM's counsel was provided with all of the evaluation materials and the competing proposals, under our protective order process. Without a substantive rebuttal to the agency's explanations, and given that our review of the record leads us to conclude that the agency's positions are reasonable, IPM has given us no basis for questioning the evaluation conclusions here. Atmospheric Research Sys., Inc., B-240187, Oct. 26, 1990, 90-2 CPD ¶ 338 at 3.

The protest is denied.

Anthony H. Gamboa
General Counsel